Supreme Court, U.S.
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No. 99-1016

IN THE

Supreme Court of the United States

JOHN S. PEREIRA, Esq., as Chapter 11 Trustee of the Estate of Payroll Express Corporation, *et al.*,

Petitioner,

v.

AETNA CASUALTY & SURETY COMPANY, FEDERAL INSURANCE COMPANY, CHUBB GROUP OF INSURANCE COMPANIES, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF IN OPPOSITION FOR RESPONDENTS FEDERAL INSURANCE COMPANY AND CHUBB GROUP OF INSURANCE COMPANIES

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STATEMENT PURSUANT TO RULE 29.6

Respondent Federal Insurance Company is a wholly owned subsidiary of the Chubb Corporation. Respondent Chubb Group of Insurance Companies is not a legal entity, but a trade style for a group of affiliated insurance companies which includes Federal Insurance Company.

Respondents, Federal Insurance Company and Chubb Group of Insurance Companies (together collectively referred to as "Federal") oppose the petition for a writ of certiorari to review the order/opinion of the Court of Appeals for the Second Circuit entered on July 29, 1999 (*Pereira v. Aetna Cas. & Sur. Co.*, 186 F.3d 196 (2d Cir. 1999) (App. A) to the extent, if any, that such writ seeks to review any part of the judgment dismissing the action against Federal pursuant to the opinion and order of the district court which granted Federal's motion for summary judgment pursuant to Fed. R. Civ. P. 56 (*Pereira v. Aetna Cas. & Sur. Co., et al.*, (*In re Payroll Express Corp.*), 216 B.R. 498 (S.D.N.Y. 1997), *reconsideration denied*, No. 95 CIV. 4385, 1997 WL 539777 (S.D.N.Y. 1997)). The judgment in favor of Federal dismissing the claim against it was affirmed in all respects by the Court of Appeals.

REASONS FOR DENYING THE WRIT

While it appears from the petition that the petitioner, John S. Periera, the Chapter 11 Trustee, only seeks the Court's review of the Court of Appeals' affirmance of the district court's decision pertaining to its award of summary judgment to the London Excess Underwriters (the "LEU") dismissing the action against LEU, (petitioners brief p. 6), there are references in petitioner's brief that he seeks review of the judgment of the Court of Appeals for the Second Circuit (petitioner's brief p. 1) part of which affirmed the dismissal of the action against Federal.

Except for a few minor references to the district court decisions relating to Federal in the statement of the case, none of the issues raised in the petition and sought to be reviewed by this Court relate to Federal or to the dismissal

of the action against Federal. Indeed, all of the arguments made in the petition are focused exclusively against LEU and to the award of summary judgment in favor of LEU dismissing the action against it.

The Court should not be misled by the generalization used in the petition that by seeking "review of the judgment" of the Court of Appeals the application is in any way directed at Federal. The petition does not seek any relief against Federal. Therefore, Federal files this response to the petition to assure that the Court does not inadvertently assume that any relief is sought against the Federal respondents.

CONCLUSION

For the reasons given above, and for those given in respondents LEU's and Aetna's briefs in opposition, the petition should be denied in all respects.

Respectfully submitted,

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